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09/905,630	07/13/2001	Vadim Antonov	005642.P001	3706

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EXAMINER
DAS, CHAMELI

ART UNIT	PAPER NUMBER
2192	

DATE MAILED: 12/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>09 November 2005</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4,6-9,11-18,20-29 and 31-43* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4,6-9,11-18,20-29 and 31-43* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>18 April 2005</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/30/02</u>.

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

1.   This action is in response to the RCE filed on 11/9/05.

2.   Claims 1, 16, 26, and 32 have been amended.

3.   Claims 5, 10, 19, and 30 have been canceled.

4.   Claim 43 has been added.

5.   Claims 1-4, 6-9, 11-18, 20-29, and 31-43 have been rejected.

Double Patenting

6.   The nonstatutory double patenting rejection is based on a judicially created
doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the
unjustified or improper timewise extension of the "right to exclude" granted by a patent
and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11
F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225
USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA
1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*,
418 F.2d 528, 163 USPQ 644 (CCPA 1969).
        A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be
used to overcome an actual or provisional rejection based on a nonstatutory double
patenting ground provided the conflicting application or patent is shown to be commonly
owned with this application. See 37 CFR 1.130(b).
        Effective January 1, 1994, a registered attorney or agent of record may sign a
terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with
37 CFR 3.73(b).

7.   Claims 1-4, 6-9, 11-18, 20-29, and 31-43 are provisionally rejected under the

judicially created doctrine of obviousness-type double patenting as being unpatentable

over claims 1-20 of the Application No. US 09/909,588. Although the conflicting claims

are not identical, they are not patentably distinct from each other because both

applications comprise a method for secure communication between two host system

using an object library, the object library being between a transport layer of network

communication and input and output channels, the object library to create stateful

objects from objects of application processes for communication between hosts.

This is a <u>provisional</u> obviousness-type double patenting rejection because the

conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 101

8.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine,
> manufacture, or composition of matter, or any new and useful improvement
> thereof, may obtain a patent therefor, subject to the conditions and requirements
> of this title.

Claims 1, 16, 26, and 32 are rejected under 35U.S.C. 101 because the claimed

invention is directed to non-statutory subject matter.

Claims 1, 16, 26, and 32 are rejected under 35U.S.C. 101 because the claimed

invention is directed to non-statutory subject matter. The language of the claims raise a

question as to whether the claim is directed merely to an abstract idea that is not tied to

a technological environment or machine which would result is a practical application

producing a concrete, useful and tangible result to form the basis of statutory subject

matter under 35 U.S.C. 101. These claims require the addition of tangible hardware

elements to provide tangible results.

The Examiner has suggested one way to overcome this rejection below:

"A Computer implemented method executing on a computer".

Claim Rejections - 35 USC § 102

9.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or
described in a printed publication in this or a foreign country, before the invention
thereof by the applicant for a patent.

Claims 1-4, 6-8, 11-18, and 20-25 are rejected under 35 U.S.C. 102(a) as being

anticipated by Mattaway et al, (Mattaway), US 6,226,678.

As per claim 1, Mattaway discloses:

providing a connection between a first process and a second process

(Matttaway, abstract, col 4, lines 38-40 and Fig 1), where two processing unit

connecting via the Internet and the database, which is the dynamic link object library

(col 6 lines 62-68, col 7 lines 1-3)

the first process having a first object type structure, the second process having a

second object type structure (col 17 lines 1-20), where API utilizes TCP to transfer data

of different types clearly indicates different process having different type structures

dynamically determining whether the first object type structure matches

the second object type structure through comparing names and behavior version

numbers of the first object type structure and the second type object structure using an

object library (Mattaway, col 17, lines 1-20, col 20, lies 43-56), Mattaway discloses that

the system establishes a real-time communication (see Abstract) using dynamic link

library, where Webphone is a dynamic link object library (col 15, lines 46-54)

the object library to create stateful objects from objects of application processes

for communication between hosts (col 15 lines 6-15, col 15 lines 60-65)

the object library being between a transport layer of network communication (col

15, lines 39-53) and input and output channels (col 4 lines 22-37)

utilizing a flow control provided by a unit for the connection (Matttaway, col 15,

lines 50-60, col6, lines 31-40).

As per claim 2, Mattaway discloses:

- first process provides a push of information to or a pull of information from the

second process (column 9, lines 41-57).

As per claims 3, 17, Mattaway discloses:

-    first process is a client process (Matttaway, Abstract, col 3, lines 15-20).

As per claims 4, 18, Mattaway discloses:

-    second process is a server process (Matttaway, Abstract, col 3, lines 15-20).

As per claim 6, Mattaway discloses:

-    wherein unit is a transport layer (Matttaway, col 6, lines 31-40).

As per claim 7, Mattaway discloses:

- transport layer supports a plurality of point-to-point ... process (Matttaway,

Abstract, col 6, lines 55-65).

As per claim 8, Mattaway discloses:

- the flow control occurs at a flow origin (Matttaway, col 15, lines 30-42, col 9,

lines 41-52).

For claim 11, (Mattaway, abstract).

For claim 12, (Mattaway, abstract, col 11, lines 10-14).

For claim 13, (Mattaway, col 11, lines 10-35).

For claim 14, (Mattaway, abstract, col 11, lines 10-35).

For claim 15, (Mattaway, abstract, col 11, lines 10-14).

As per claim 16, Mattaway discloses a secure connection between the first

process and the second process (Abstract, col 17 lines 32-50, col 26, lines 27-30), for

the rest of the limitations, see the rejection of claim 1 above.

For claim 20, (Mattaway, abstract, col 3, lines 3-24).

For claim 21, (Mattaway, col 21, lines 50-65).

For claim 22, (Mattaway, col 21, lines 50-65, col 3, lines 3-24).

For claim 23, (column 9, lines 41-57, col 27, lines 58-67, col 28, lines 1-27).

For claim 24, (Abstract, col 3 lines 1-25).

For claim 25, (column 9, lines 41-57, col 27, lines 58-67, col 28, lines 1-27).

Claim Rejections - 35 USC § 103

10.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed
> or described as set forth in section 102 of this title, if the differences between the
> subject matter sought to be patented and the prior art are such that the subject
> matter as a whole would have been obvious at the time the invention was made

to a person having ordinary skill in the art to which said subject matter pertains.
Patentability shall not be negatived by the manner in which the invention was
made.

Claims 9, 26-29, and 31-43 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Mattaway, US 6,226,678 and further in view of Nakamura, US

6,463,036.

As per claim 9, Mattaway discloses the flow control backs up information at the

flow origin (Mattaway, col 12, lines 20-32). Mattaway does not specifically disclose

providing a buffer at the flow origin to prevent overflow of information to the recipient of

the flow. However, Nakamura discloses providing a buffer at the flow origin

(Nakamura, col 3, lines 19-30) to prevent overflow of information to the recipient of the

flow (col 3, lines 35-40).

The modification would be obvious because one of the ordinary skill in the art would be

Motivated to perform congestion control in a communication network system.

As per claim 26, Mattaway discloses:

providing a connection between a first process and a second process

(Matttaway, abstract, col 4, lines 38-40)

dynamically matching the first process and the second process (Matttaway,

abstract, col 15, lines 10-15)

using a library to dynamically match the first process and the second process

(Matttaway, col 15, lines 10-11, col 15, lines 50-54).

Mattaway does not specifically disclose asynchronous connection. However,

Nakamura discloses the asynchronous connection (Nakamura, abstract). The

modification would be obvious because one of the ordinary skill in the art would be
motivated to provide reliable, efficient and high-speed communication system to
connect the processes.

For the rest of the limitations see the rejection of claim 1 above.

As per claim 27, Mattaway discloses:

- first process provides a push of information to or a pull of information from the
  second process (column 9, lines 41-57).

For claims 28-29, see the rejections of claims 3 and 4.

For claim 31 (Mattaway, col 25, lines 20-40, col 27, lines 60-65).

As per claim 32, Mattaway discloses:

- providing a connection between a first process and a second process
(Matttaway, abstract, col 4, lines 38-40)

- providing a secure connection between the first process and the second
  process using an object library (Matttaway, Abstract, col 26, lines 27-30, col
  6 lines 62-68, col 7 lines 1-2).

Mattaway does not specifically disclose asynchronous connection. However,
Nakamura discloses the asynchronous connection (Nakamura, abstract). The
modification would be obvious because one of the ordinary skill in the art would be
motivated to provide reliable, efficient and high-speed communication system to
connect the processes.

For claims 33-35, see the rejections of claims 27-29 respectively.

For claim 36, see the rejections of claim 31.

For claims 37- 42, see the rejections of claims 20-25 respectively.

As per claim 43, Mattaway discloses at least one of the first process and the

second process creates a stateful object (60-65) using the object library (col 15 lines 5-

15) the communication between the first and second processes (col 15 lines 40-52).

Mattaway does not specifically disclose asynchronous connection. However,

Nakamura discloses the asynchronous connection (Nakamura, abstract). The

modification would be obvious because one of the ordinary skill in the art would be

motivated to provide reliable, efficient and high-speed communication system to

connect the processes.

Response to the Arguments

11.   Applicant's argument filed on 11/9/05 has been fully considered but they are not

persuasive. In remarks, the applicant argued in substances:

(1)   As per claims 1, 16 and 26 Mattaway does not disclose: "comparing names and

version numbers by using object library, the object library being between a transport

layer of network communication and input and output channels, the object library to

create stateful objects from object of application processes for communication between

hosts".

Response:

(1)   Mattaway discloses the above limitation. See the rejection of claim 1 above.

(2)   Neither Mattaway nor Nakamura disclose "creates a stateful object using the

object library for asynchronous communication between the first process and the

second process.

Response:

(2)   Mattaway discloses at least one of the first process and the second process

creates a stateful object (60-65) using the object library (col 15 lines 5-15) the

communication between the first and second processes (col 15 lines 40-52).

Mattaway does not specifically disclose asynchronous connection. However,

Nakamura discloses the asynchronous connection (Nakamura, abstract). The

modification would be obvious because one of the ordinary skill in the art would be

motivated to provide reliable, efficient and high-speed communication system to

connect the processes.

(3)   Mattaway and Nakamura do not show a method to use an object library for

secure and asynchronous connection between two processes .

Response:

(3)   Mattaway discloses the secure connection by using Webphone database

(dynamic link object library) in col 17 lines 15-60.

Mattaway does not specifically disclose asynchronous connection. However,

Nakamura discloses the asynchronous connection (Nakamura, abstract). The

modification would be obvious because one of the ordinary skill in the art would be

motivated to provide reliable, efficient and high-speed communication system to

connect the processes.

12.   The prior art made or record and not relied upon is considered pertinent to

applicant's disclosure.

TITLE: Data management system and process, US 5878408 A

TITLE: System and method for distributed computation based upon the movement, execution, and interaction of processes in a network, US 6016393 A

TITLE: Data management system having shared libraries, US 5826265 A

TITLE: Apparatus for presenting the content of an interactive on-line network, US 5,933,599.

13.	Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chameli Das whose telephone number is 571-272-3696.

The examiner can normally be reached on Monday-Friday from 7:00 A.M. to 3:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Tuan Dam can be reached at 571-272-3695. The fax number for this group is (571) 273-8300.

An inquiry of general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 571-272-2100.

CHAMELI C. DAS
PRIMARY EXAMINER

11/28/05